

Amendment in the Nature of a Substitution – Item 380-10

Introduced by: Presiding Officer Peter Schmitt, Deputy Presiding Officer John Ciotti, Alternate Deputy Presiding Officer Norma Gonsalves, Legislator Denise Ford, Legislator Francis X. Becker, Legislator Howard J. Kopel, Legislator Vincent T. Muscarella, Legislator Richard J. Nicoletto, Legislator Joseph V. Belesi, Legislator Dennis Dunne, Sr., Legislator Rose Marie Walker

LOCAL LAW NO. 14-2010

A LOCAL LAW TO REQUIRE YOUTH AGENCIES OPERATING IN NASSAU COUNTY TO INQUIRE AS TO THE SEX OFFENDER STATUS OF ALL PRINCIPALS, EMPLOYEE(S), VOLUNTEER(S), AND INDEPENDENT CONTRACTOR(S) WITH THE NEW YORK STATE SEX OFFENDER REGISTRY AND TO DISCLOSE THE RESULTS THEREOF UPON REQUEST

Passed by the Nassau County Legislature on August 2, 2010
Voting: ayes: 18, nays: 0, abstained: 0
Became a law on August 6, 2010 with the approval of the County Executive.

FORM APPROVED
Christopher C. ...
MAJORITY COUNSEL

BE IT ENACTED by the County Legislature of the County of Nassau, as follows:

§1. Short Title. This law shall be known as the “Sex Offender Identification and Disclosure Law” and shall appear in the Miscellaneous Laws of Nassau County as Title 76.

§2. Legislative Intent. This Legislature finds that the New York State Sex Offender Registration Act (“SORA”) provides for the registration of convicted sex offenders and has established a Sex Offender Registry whereby the public may inquire about the registration status of any individual. This service is provided as a public benefit by New York State, and may be accessed free of charge.

This Legislature further finds that this Sex Offender Registry is a cost-free method of communication by which the public may identify a sex offender at any risk level as provided by SORA.

This Legislature further finds that sex offenders have a high rate of recidivism and therefore pose a serious risk to youth when entrusted with their care or supervision. As such, parents and guardians of children have an interest in ascertaining whether any principal, employee, volunteer, or independent contractor employed by a youth agency is a registered sex offender pursuant to SORA.

This Legislature further finds that a person that submits an inquiry to the Sex Offender Registry, including a parent or guardian of a child, will be informed of an individual's sex offender status only if the person calling can provide that individual's name and one of four identifiers for that person (date of birth, social security number, driver's license number or exact address).

This Legislature further finds that a youth agency would more likely have access to this information and would therefore be able to obtain the sex offender status of a principal, employee, volunteer, or independent contractor and provide the same to a parent or guardian of child upon request.

Therefore, the primary purpose of this law is to require youth agencies to inquire as to the sex offender status of all principals, employees, volunteers, and independent contractors for the calendar year by submitting an inquiry to the Sex Offender Registry and to provide, upon the written request of a parent or guardian of a child, a written statement identifying registered sex offenders employed by said agency within five (5) business days of the receipt of said request.

§3. Definitions. As used in this title:

- a. Youth Agency: Any person, agency, or organization that serves youth under the age of eighteen (18) in any capacity.
- b. SORA: The New York State Sex Offender Registration Act.
- c. Sex Offender Registry: The registry maintained by the New York State Division of Criminal Justice Services pursuant to §168 (b) of the New York State Correction Law.
- d. Registered Sex Offender: Any individual who is required to register with the Division of Criminal Justice Services pursuant to SORA.
- e. Sex Offender Status: The risk level for an individual as identified by the Division of Criminal Justice Services pursuant to SORA.
- f. Independent Contractor: A person or business that performs services for a Youth Agency and works directly with youth under the age of eighteen (18) under an express or implied agreement.
- g. Guardian of a child: Any person or business entrusted with the care and supervision of a child.

§4. Identification of Sex Offender Status. Youth Agencies operating within the County of Nassau County shall inquire as to the Sex Offender Status of all principals, employees, volunteers and independent contractors for the calendar year by submitting an inquiry to the Sex Offender Registry.

§5. Disclosure of Sex Offender Status. A parent or guardian of a child may submit a written request to a Youth Agency to inquire as to the identities and Sex Offender Status of the Youth Agency's principals, employees, volunteers, or independent contractors. Upon receipt of this written request, the Youth Agency shall provide that parent or guardian of a child with a written statement by a principal, officer or director of the agency or organization ("Disclosure Statement") stating the following:

- (a) That the Youth Agency has inquired as to the Sex Offender Status of all principals, employees, volunteers, and independent contractors of the Youth Agency for the calendar year by submitting an inquiry to the Sex Offender Registry; and
- (b) That all principals, employees, volunteers, and independent contractors subject to inquiry are not Registered Sex Offenders and do not have a pending risk level pursuant to SORA, or if the person(s) subject to inquiry is a Registered Sex Offenders or has a pending risk level pursuant to SORA, the Youth Agency must disclose the sex offender risk level as identified by the Sex Offender Registry for that individual(s) to the requesting parent or guardian of a child; and
- (c) That the Youth Agency shall for the remainder of the calendar year inquire as to the Sex Offender Status of all principals, employees, volunteers, and independent contractors prior to the hiring or retention of all principals, employees, volunteers, and independent contractors.
- (d) That the Youth Agency shall provide another Disclosure Statement to the parent or guardian of a child within five (5) business days of the receipt of the results of the inquiry to the Sex Offender Registry for all principals, employees, volunteers, and independent contractors hired or retained after the date of the initial Disclosure Statement should the inquiry identify a Registered Sex Offender or an individual with a pending risk level pursuant to SORA.

§6. Disclosure Statements. Disclosure Statements must be provided to the requesting parent or guardian of a child by mailing the same within five (5) business days of receipt of the written request from the parent or guardian of child, or within (5) business days of the receipt of the results of the inquiry to the Sex Offender Registry, whichever is sooner.

§7. Penalties. Any Youth Agency that violates any provision of this law shall be guilty of a violation punishable by a fine of not more than two hundred and fifty dollars (\$250).

§8. Severability: If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm,

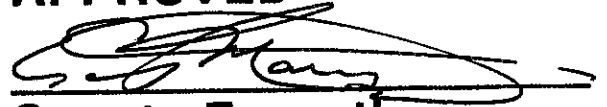
partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership entity or circumstance directly involved in the controversy in which order or judgment shall be rendered.

§9. SEQRA Determination

It is hereby determined by the Nassau County Legislature, the lead agency, and pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 NYECL section 0101 et seq. and its implementing regulations, Part 617 of 6 NYCRR, and Section 1611 of the County Government Law of Nassau County, that this Local Law will not have a significant impact on the environment and that no further environmental review or action is required.

§10. Effective Date: This law shall take effect immediately after becoming a law.

APPROVED



County Executive

DATE 8/6/10